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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/563,692

01/05/2006

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EXAMINER

HOWARD, ZACHARY C

ART UNIT

PAPER NUMBER

1646

MAIL DATE

DELIVERY MODE

11/14/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of Non-Compliant Amendment (37 CFR 1.121)

Application No.

10/563,692

Examiner

Zachary C. Howard

Applicant(s)

JACOBSON ET AL.

Art Unit

1646

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 05 January 2006 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
 - ☐ A. Amended paragraph(s) do not include markings.
 - ☐ B. New paragraph(s) should not be underlined.
 - ☐ C. Other _____.
- ☐ 2. Abstract:
 - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
 - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
 - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
 - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
 - ☐ C. Other _____.
- ☒ 4. Amendments to the claims:
 - ☒ A. A complete listing of all of the claims is not present.
 - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
 - ☒ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
 - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
 - ☒ E. Other: See Continuation Sheet.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

Failure to timely respond to this notice will result in:

Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

/Elizabeth C. Kemmerer/

Pr. Exmr., A.U. 1646

Legal Instruments Examiner (LIE), if applicable

Telephone No.

Notice of Non-Compliant Amendment (37 CFR 1.121)

Continuation of 4(e) Other: This box has been checked in order to provide a further explanation of boxes 4A and 4C.

MPEP 714 states, "[e]ach amendment document that includes a change to an existing claim, including the deletion of an existing claim, or submission of a new claim, must include a complete listing of all claims ever presented (including previously canceled and non-entered claims) in the application. After each claim number, the status identifier of the claim must be presented in a parenthetical expression, and the text of each claim under examination as well as all withdrawn claims (each with markings if any, to show current changes) must be presented."

The amendments presented in the preliminary amendment filed 1/5/2006 do not meet this requirement for the following reasons.

With respect to box 4A, Applicants have canceled claims 11, 13, 16, 17, 18, 20, 22, 26, 30 and 39 but have not included these claims in the listing of claims. Each claim, including each canceled claim, should be represented in the claim listing with the status identifier of "(Canceled)". The full text of the canceled claim does not need to be included. For example, if Applicants cancel claim 11, the following should appear between claims 10 and 12 in the listing of claims: "11. (Canceled)." Thereafter, all subsequent claim listings would include the same representation for canceled claim 11.

With respect to box 4C, status identifiers are missing for each of the following claims: 2-10, 12, 14, 15, 19, 23, 24, 25, 27, 28, 31-38. Claims 5 and 33 contain amendments to the claims and should therefore be indicated as "(Currently amended)". Claims 2-4, 6-10, 12, 14, 15, 19, 23, 24, 25, 27, 28, 31, 32 and 34-38 do not appear to have any amendments as thus should be listed as "(Original)".

Because the preliminary amendment filed 1/6/2006 is non-compliant, it has not been entered into the record of the case. In view of this, the originally filed claims (also dated 1/5/2006) are considered to be the currently pending claims. Any future amendments to the claims should use these originally filed claims as a basis for amendment. Any amendments that are based on the non-entered preliminary amendment claims will be considered to be non-responsive to this notice.